



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable M. C. Ledbetter
County Attorney
Cochran County
Morton, Texas

Dear Sir:

Opinion No. 0-6915

Re: Authority of the Commissioners' Court of Cochran County to lease a county hospital.

We have received your letter of recent date requesting an opinion from this department on the above subject matter. Your request is as follows:

"By virtue of the authority granted under Article 4478 of the Revised Civil Statutes of Texas, the Commissioners' Court of Cochran County, Texas, is erecting a County Hospital.

"The Court has had several opportunities to lease said hospital upon its completion. Now, the question is, 'Does the Commissioners' Court of Cochran County, Texas, have the authority to lease the County Hospital to any one', under the law.

"It is my opinion that under the law, as set out in the aforementioned statute, 4478, the Commissioners' Court does not have the authority to lease said County Hospital. And in my opinion the court does not have the authority to lease said hospital under Articles 4494a, 4494b, 4494c, 4494d, 4494e, 4494f, 4494g, 4494h and 4494i, in view of the fact that the population of Cochran County, Texas, according to the 1940 census was 3,735.

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"There has been some controversy in Cochran County over the leasing of the County Hospital, and the Commissioners' Court has asked me to get an opinion from your office on the matter; therefore, I would appreciate it if you would send us your opinion as soon as possible."

Cochran County has a population of 3,735 inhabitants according to the 1940 Federal Census.

This department has repeatedly held that the Commissioner's Court is a court of limited jurisdiction and has only such powers as are conferred upon it by the Constitution and statutes of this State either by express terms or by necessary implication. Section 18 of Article V of the Texas Constitution; Article 2351, V. A. C. S.; Von Rosenberg v. Lovett, 173 S. W. 508, Miller v. Brown, 216 S. W. (2d) 479; Galveston H. & S. A. Ry. Co. v. Uvalde County, 167 S. W. (2d) 1084; 11 Texas Jurisprudence 564.

The Legislature has attempted to give certain counties the power to lease county hospitals. See Articles 4494a, 4494b, 4494c, 4494d, 4494e, 4494f, 4494g, and 4494h, Vernon's Annotated Civil Statutes. We do not pass upon the validity of these statutes, for that question is not before us. Even if said statutes are valid, Cochran County will not fall in any of the categories set by the foregoing articles, since it has a population of 3,735. In the absence of such constitutional or statutory authority, Cochran County has no authority to lease the county hospital. Your question is therefore answered in the negative.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

BY *J. C. Davis, Jr.*
J. C. Davis, Jr.
Assistant

BY *John Reeves*
John Reeves

JR:LJ

Charles E. Davis

